

REMARKS

Applicant acknowledges, with appreciation, the allowance of independent claims 16, 93 and 94, and the indication that claims 6, 8-11, 22-25, 31-34, 39, 41-49, 54, 60, 67 and 77-88 contain allowable subject matter. Claims 2-16, 18-88 and 92-97 are now pending, with claims 92-97 being the independent claims. Claims 1, 17 and 89-91 have been cancelled. Claims 2-16, 18-88 have been amended. Claims 2-7, 13-15 have been amended to depend from independent claim 92. Claims 18-22 and 25 have been amended to depend from independent claim 94. The amendments to claims 8-12, 23, 24, 26-88 clarify the wording of the claims, and are cosmetic in nature. No new matter has been added. Reconsideration of the application, as amended, is respectfully requested.

In the Office Action dated March 24, 2006, independent claims 92 and 95-97 were rejected under 35 U.S.C. §102(e) as being anticipated by WO 98/28859 (“*Raitola*”). For the following reasons, it is respectfully submitted that all claims of the present application are patentable over the cited references.

Raitola relates to a method for generating a carrier wave for transmitting common channels and dedicated channels. *Raitola* (pg. 6, line 34 to pg. 7, line 1; Fig. 2) states, “the transmission is performed with a predetermined reference power without frequency hopping, in order to make the measurement of a neighboring base station possible”. In addition, *Raitola* (pg. 8, lines 19-26; Fig. 2) teaches how the carrier wave of common channels is generated. Here, *Raitola* states, “at least one time slot containing a common channel is transmitted with a predetermined reference power without frequency hopping. In other words, ... in the time slot 0, common channels FCCH, SCH, BCCH, CCCH in the frame numbers 0 to 50 of the 51-multiframe are transmitted with the reference power. The use of reference is illustrated in the figure...”. *Raitola* thus teaches that the transmission power of the carrier is adjusted such that the time slot containing a common channel is transmitted with a predetermined reference power, i.e., fixed power, and that the other time slots containing dedicated channels are transmitted with a transmission power that is lower than the reference power, along with the use of frequency hopping. *Raitola* (pg. 9, lines 26-28) teaches that the method enables times slots containing other than common channels to utilize discontinuous transmission and/or power control.

However, *Raitola* fails to teach the step of “transmitting said information in said common CDMA channel, wherein said information intended for different second stations are transmitted

at different power levels", as recited in independent claim 92. Rather, *Raitola* teaches a clear distinction between common channels and dedicated channels. Moreover, it is clear that *Raitola* transmits the common channels with a fixed power level. In view of the foregoing, Applicant respectfully asserts that independent claim 92 is patentable over *Raitola* and thus, reconsideration and withdrawal of the rejection under 35 U.S.C. §102(e) are requested, and a notice to that effect is earnestly solicited.

Independent claims 95, 96, and 97 are the controller, base station and user terminal that correspond to the method of independent claim 92. Therefore, these claims are patentable over *Raitola* for the reasons presented with respect to independent claim 92.

In view of the patentability of independent claims 1, 16, and 92-97 for the reasons above, dependent claims 2-15, and 18-88 are all patentable over the prior art.

Based on the foregoing amendments and remarks, this application should be in condition for allowance. Early passage of this case to issue is requested.

Respectfully submitted,
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